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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,912	07/17/2003	Yang-Rae Cho	11038-089-999	2133

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MORGAN, LEWIS & BOCKIUS, LLP.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306

EXAMINER

BONCK, RODNEY H

ART UNIT	PAPER NUMBER
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3681

DATE MAILED: 08/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/621,912

Applicant(s)

CHO, YANG-RAE

Examiner

Rodney H. Bonck

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

The following action is in response to the amendment received April 29, 2005 and the Request for Continued Examination received June 29, 2005.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 3-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1, 6 and 14 call for a rotating axis of the rotating cam being "arranged above" the cam body and for the rotating cam be "moved in a locking direction from top to bottom". The intended meanings of the terms "above", "top" and "bottom" are unclear, however, since the claims do not define an up or down direction.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-9 and 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yokoyama et al.('029). Noting particularly Fig. 3, the Yokoyama et al. device shows a shift lock device comprising a cam body 14 integrally mounted to the shift lever, a rotating cam 36 that acts on the cam body to prevent the shift lever from moving in a lateral direction from either the P or the N range, a brake pedal switch 41, and rotating means or linkage mechanism 48 for rotating the rotating cam in response to an electrical signal from the brake pedal switch. The cam body is disposed with a cam wall (not separately numbered, but shown in Fig. 2 facing rotating cam 36) formed in parallel with the rotational plane of the rotating cam. The rotating means comprises a solenoid 48 with an actuating rod 50 and a link 44 connecting the actuating rod to link arm 44. The Yokoyama et al. device also provides an emergency lever 59 for rotating the rotating cam manually. The rotating cam has a locking arm that carries cam 42, a link arm 44, and a lever arm 38,54 connected to the emergency lever. These claims call for a rotating axis of the rotating cam arranged above the cam body and recite that the rotating cam is moved in a locking direction from a top to bottom in its engagement with the cam wall of the cam body. The relative position of the rotational axis of the rotating cam and the cam body would not be of patentable significance so long as they are disposed to perform their locking function, since the positioning of the rotating cam could be varied by the artisan as appropriate depending on space requirements of the environment in which the device is used. Furthermore, modifying the Yokoyama et al. device to provide the rotating cam positioned to pivot downwardly to engage the cam body would have been an obvious matter of design choice, since applicant has not

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disclosed any particular advantage of or problem solved by positioning the cam pivot above the cam body and since it appears that the pivot orientation of the Yokoyama et al. device would perform equally well.

Claims 1, 3-5, 10-13, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yokoyama et al.('029) as applied to claims 6-9 and 14-17 above, and further in view of Beattie('196). The gate structure in the Yokoyama et al. device does not include a manual gate at a side of the D range for manual up and down shifts, as required in these claims. The Beattie et al. device, however, discloses a gate structure for a shift lever of an automatic transmission that includes a manual gate 37 disposed to the right of the D range to permit the driver to manually upshift and downshift the transmission. It would have been obvious to similarly incorporate a manual gate in the device of Yokoyama et al., the motivation being to give the driver the option of manually upshifting and downshifting the transmission.

Response to Arguments

Applicant's arguments filed April 29, 2005 have been fully considered but they are not persuasive. Applicant argues that Yokoyama does not provide a "single rotating cam" as now required. The examiner disagrees, however, since stopper link 36 of the Yokoyama et al. device can be considered a single cam. In addition, the cam body in the Yokoyama et al. device is parallel to the rotating plane of the rotating cam, contrary to applicant's assertion. Applicant also argues that the rotating axis of the rotating cam

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of the Yokoyama et al. device is not arranged above the cam body. As noted in the above rejection under 35 USC 112, second paragraph, the claims do not define an upward or downward direction that would give clear meaning to the term "above". Furthermore, as noted in the rejection above, it would have been within the purview of the artisan to orient the rotating cam as appropriate for the space provided, such that claiming the relative position of the rotational axis of the cam would not be of patentable significance.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shioji et al.('967) is cited for its showing of rotating cam 31.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney H. Bonck whose telephone number is (571) 272-7089. The examiner can normally be reached on Monday-Friday 7:00AM - 3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on (571) 272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Rodney H. Bonck
Primary Examiner
Art Unit 3681

rhb
August 9, 2005